

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTOINE R. WILLIAMS,) No. C 06-6981 JSW (PR)
Plaintiff,)
vs.) **ORDER OF DISMISSAL**
KHALED ALJUHAIM and LEE)
MARKET,) (Docket No. 2)
Defendants.)

Plaintiff, an inmate incarcerated at the Alameda County Jail, has filed a pro se civil rights complaint under 42 U.S.C. § 1983 against two private entities, a grocery store and its manager, alleging that they assaulted him on May 12, 2006. Plaintiff has also filed a motion to proceed in forma pauperis (docket no. 2), which is now DENIED as moot. No fee is due.

DISCUSSION

A. Standard of Review

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. *See* 28 U.S.C. § 1915A(a). In its review the court must identify any cognizable claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. *See id.* at 1915A(b)(1),(2). Pro se

1 pleadings must be liberally construed. *See Balistreri v. Pacifica Police Dep't*, 901 F.2d
2 696, 699 (9th Cir. 1990).

3 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential
4 elements: (1) that a violation of a right secured by the Constitution or laws of the
5 United States was violated, and (2) that the alleged deprivation was committed by a
6 person acting under the color of state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988).

7 **B. Legal Claim**

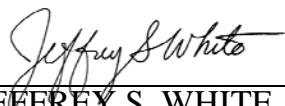
8 In this case, Plaintiff has sued a private individual and a private entity, a store.
9 A private individual generally does not act under color of state law. *See Gomez v.*
10 *Toledo*, 446 U.S. 635, 640 (1980). Purely private conduct, no matter how wrongful, is
11 not covered under § 1983. *See Ouzts v. Maryland Nat'l Ins. Co.*, 505 F.2d 547, 559
12 (9th Cir. 1974). Simply put: there is no right to be free from the infliction of
13 constitutional deprivations by private individuals. *See Van Ort v. Estate of Stanewich*,
14 92 F.3d 831, 835 (9th Cir. 1996). Therefore, Plaintiff's claims are DISMISSED
15 without prejudice to Plaintiff bringing the claims in a court which has jurisdiction to
16 hear them.

17 **CONCLUSION**

18 For the forgoing reasons, Plaintiff's complaint is hereby DISMISSED for the
19 reasons set forth above. The Clerk shall close the file and enter judgment in this case.

20 **IT IS SO ORDERED.**

21 DATED: November 27, 2006

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23 JEFFREY S. WHITE
24 United States District Judge
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